

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Gary W. Howard

v.

Civil No. 05-cv-277-PB

Warden, Northern New Hampshire
Correctional Facility

O R D E R

Pro se petitioner Gary W. Howard amends his petition for a writ of habeas corpus, filed pursuant to 28 U.S.C. § 2254, challenging the constitutionality of his state court conviction and confinement (document no. 7). The petition is before me for preliminary review. See Rule 4 of the Rules Governing Section 2254 Proceedings ("Habeas Rules") (requiring initial review to determine whether the petition is facially valid and may be served); United States District Court for the District of New Hampshire Local Rules 4.3(d) (authorizing the magistrate judge to preliminarily review *pro se* pleadings).

For the reasons stated in my report and recommendation issued simultaneously herewith, I order the petition served on the respondent, but only as to Ground One of the amended petition. See Habeas Rule 4. I have recommended dismissal of

the remaining claims.

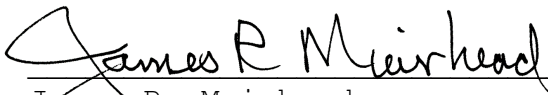
Accordingly, the petition shall be served upon the Warden of the Northern New Hampshire Correctional Facility, who shall file an answer or other pleading in response to the allegations made therein. See id. (requiring reviewing judge to order a response to the petition). The Clerk's Office is directed to serve the New Hampshire Office of the Attorney General by certified mail, return receipt requested, copies of this order, the prior order issued by this Court and the original and amended habeas petitions and addenda thereto (document nos. 1, 4 and 7). Respondent shall answer or otherwise plead within thirty (30) days of the date of this order. The answer shall comply with the requirements of Habeas Rule 5 (setting forth contents of the answer).

Upon receipt of the response, the court will determine whether a hearing is warranted. See Habeas Rule 8 (providing circumstances under which a hearing is appropriate).

Petitioner is referred to Fed. R. Civ. P. 5, which requires that every pleading, written motion, notice, and similar paper, after the petition, shall be served on all parties. Such service

is to be made by mailing the material to the parties' attorneys.

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: October 28, 2005

cc: Gary Howard, *pro se*